

Message Text

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TO AMCONSUL HONG KONG

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FOR CROSS FROM PM:GSVEST

E.O. 11652: N/A

TAGS: ACLM, HK, US

SUBJECT: ARMED SERVICES BOARD OF CONTRACT APPEALS CASE
NO. 18156

REFS: (A) STATE 258583; (B) HONG KONG 12219
(C) STATE 257169

1. I HAVE LOOKED INTO THE CASE YOU RAISE AND RELUCTANTLY
HAVE TO CONCLUDE THAT THERE IS NOT ADEQUATE BASIS TO TURN
OFF HONG KONG VENUE. IN DELIBERATIONS ON THIS CASE WITHIN
THE DEPARTMENT AND WITH DOD, ALL CONCERNED GAVE CAREFUL
CONSIDERATION TO THE VARIOUS FACETS OF THE PROBLEM AS YOU
HAVE POINTED THEM OUT. WHILE WE DID NOT SUCCEED IN
CHANGING THE VENUE OF THE HEARING WE HAVE BEEN ABLE TO
LIMIT ITS SCOPE IN HONG KONG. I BELIEVE THIS REPRESENTS
A WORKABLE SOLUTION.

2. ONE AREA OF CONCERN, AS YOU HAVE NOTED, IS THAT OTHER
CONTRACTORS MIGHT BE TEMPTED TO JUMP ON THE BANDWAGON IF
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AN AWARD IS MADE TO LEE. I SUSPECT THIS MIGHT BE THE

CASE REGARDLESS OF WHERE THE HEARING OR FINAL ANNOUNCEMENT OF FINDINGS IS HELD, PARTICULARLY SINCE THESE TYPES OF CONTRACTS GENERALLY DO ALLOW FOR A HEARING IF THE CLAIMANT FEELS THE CONTRACT HAS BEEN BREACHED. WE HOPE TO MITIGATE THE BANDWAGON EFFECT AS MUCH AS POSSIBLE BY HAVING THE FINDINGS ANNOUNCED IN WASHINGTON.

3. THE CUSTOM OF HOLDING THE HEARINGS AT A LOCATION CONVENIENT FOR THE CLAIMANT IS STANDARD PROCEDURE IN THESE CASES AND GENERALLY IS BENEFICIAL TO US. DOING SO AVOIDS THE POSSIBILITY THAT THE CLAIMANT WILL ACCUSE US OF HOLDING HEARING IN A LOCATION INIMICAL TO HIS INTERESTS. IT MIGHT WELL BE SEEN AS PREJUDICIAL ON OUR PART TO BREAK WITH CUSTOM IN THIS PARTICULAR CASE.

4. I REGRET THE BURDEN THIS BUSINESS PLACES ON YOU AND KNOW YOU WILL HAVE A KEEN WEATHER EYE OUT FOR ANY SIGNS OF WINING AND DINING WHICH MAY BE TAKING PLACE IN CONJUNCTION WITH THE HEARING, INASMUCH AS THESE ACTIVITIES WOULD CONSTITUTE A VIOLATION OF MILITARY REGULATIONS. KISSINGER

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